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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,374	12/17/2003	Liang-Jie Zhang	SOM920030009US1	7270
59559 7590 06/20/2008 RYAN, MASON & LEWIS, LLP 90 FOREST AVENUE LOCUST VALLEY, NY 11560				
EXAMINER ANDERSON, FOLASHADE				
ART UNIT 3623		PAPER NUMBER		
MAIL DATE 06/20/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/738,374

**Applicant(s)**

ZHANG ET AL.

**Examiner**

FOLASHADE ANDERSON

**Art Unit**

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the first non-final office action in response to Applicant's submission filed on 12/17/2003. Currently, claims 20-22 are pending. Claims examined per preliminary amendment submitted 05/22/2008 in which claim 1-19 were canceled.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) be tied to another statutory class of invention (such as a particular apparatus) (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here claim 20 fails to meet the above requirements because the claim recites a series of method steps without regards to the means for implantation of the steps.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being obvious over Edinger et al (2002/0194047 A1).

The applied reference has a common *assignee* with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

In regards to claims 20-22 Edinger teaches a method of managing escalation of a process associated with an enterprise, the method comprising the steps of:

- **obtaining a request from a process associated with an enterprise** (0089, where the Examiner understands process in the broadest interpretation to be any event), **the process having one or more tasks associated therewith** (0128-0163 where the Examiner understands the request type to be the task of request for example);
- **decomposing the one or more tasks associated with the process into one or more subtasks** (0164); **mapping the one or more subtasks to one or more roles** (0251-0254 where routing and mapping are known synonyms in the art and where the agent performs the role for example in (0253) the role is software support); **allocating one or more available resources for the one or more roles** (0276);
- **launching at least one communication session such that data associated with the process is transferable to the one or more allocated resources** (0262);
- **adding annotation to the one or more subtasks such that at least a portion of the annotation may be transferred to the one or more allocated resources** (0210);
- **obtaining one or more responses from the one or more resources** (0272); and
- **performing the selected action** (0284);

- **wherein one or more individuals are associated with the one or more roles (0251-0254 and 0276), and the one or more resources comprise one or more computing devices (0307 where the resources associated with service delivery type for software problems implies computing device).**

Additionally Edinger teaches 0273, an escalation disclosed being repeating of the previous steps. Edinger does not expressly teach **selecting an action to perform, wherein the action is selected from actions comprising launching a new communication session based on at least a portion of the one or more responses from the one or more allocated resources or a task management policy, reallocating one or more new resources, aggregating the one or more responses from the one or more allocated resources, and providing a response to the process**

Edinger discloses all of the actions, see citations above, from which selection is to be made, with the exception of a **task management policy** see (0100) and **providing a response to the process**. The Examiner understands that Edinger teaches the actions of this limitation and additionally he teaches repeating previous steps, however he does not expressly teach the old and well known feature of selecting. However selecting is implied in the action of repeating a previous step. It would have been obvious to one of ordinary skill in the art in the step of repeating one could select from any of the taught actions. Thus as claimed and in light of the recent KSR decision selecting from a group of known elements to yield predictable results renders the claim obvious.

Claims 21 and 22 which are directed to the apparatus and medium respectively for the implantation of claim 20 are implied in this claim. As recited claims 21 and 22 are substantially similar to claim 20 and are therefore rejected to the same reason give with regards to claim 20.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Chaar et al (US Patent 5,960,404) teaches tasking and subtask assignment
- Hyland et al (US Patent 6,671,824 B1) teaches resource troubleshoot and repair
- Lesaint et al (Dynamic Workforce Scheduling for British Telecommunication plc, published Jan/Feb 2000) teaches a dynamic scheduling/assignment or technicians and resources.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FOLASHADE ANDERSON whose telephone number is (571)270-3331. The examiner can normally be reached on Monday through Thursday 8:00 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Folashade Anderson/  
Examiner, Art Unit 3623

/Beth Van Doren/  
Supervisory Patent Examiner, Art Unit 3623